



UNITED STATES PATENT AND TRADEMARK OFFICE

W

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,004	03/06/2001	Katsuyoshi Fujita	5000-4853	5254
7590	10/21/2003		EXAMINER	
Kurt E. Richter MORGAN & FINNEGAN, L.L.P. 345 Park Avenue New York, NY 10154			ATKINSON, CHRISTOPHER MARK	
			ART UNIT	PAPER NUMBER
			3753	
DATE MAILED: 10/21/2003				

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
Examiner	Atkinson	
Art Unit	3153	
		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 7/24/03

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5, 9-11 & 13-15 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5, 9-11 & 13-15 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1

6) Other:

Art Unit: 3753

Response to Amendment

Applicant's arguments have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Asami et al. See figures 2a-3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 5 and 11 are rejected under 35 U.S.C. § 103 as being unpatentable over Asami et al. The patent of Asami et al. discloses all the claimed features of the invention with the exception

Art Unit: 3753

of the specifically claimed material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the specifically claimed material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim 13 is rejected under 35 U.S.C. § 103 as being unpatentable over Asami et al. in view of Onishi et al. The patent of Asami et al. discloses all the claimed features of the invention with the exception of the body including a chamfer.

The device of Onishi et al. discloses bodies (11) including a chamfer for the purpose of an having an efficient packing of the bodies within a housing which increases the filling rate of hydrogen. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in over Asami et al. a chamfer for the purpose of an having an efficient packing of the bodies within a housing which increases the filling rate of hydrogen as disclosed in Onishi et al.

Claim 14 is rejected under 35 U.S.C. § 103 as being unpatentable over Asami et al. in view of Davis. The patent of Asami et al. discloses all the claimed features of the invention with the exception of a connecting section between upstream and downstream sections.

The patent of Davis discloses that it is known to have a connecting section between upstream and downstream sections for the purpose of increasing the fluid flow length which increases the time the fluid exchanges heat which increases the overall heat exchange efficiency.

Art Unit: 3753

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Asami et al. a connecting section between upstream and downstream sections for the purpose of increasing the fluid flow length which increases the time the fluid exchanges heat which increases the overall heat exchange efficiency as disclosed in Davis.

Claim 15 is rejected under 35 U.S.C. § 103 as being unpatentable over Asami et al. in view of Davis as applied to claim 14 above, and further in view of Farfaletti-Casali et al. The patent of Asami et al. as modified, discloses all the claimed features of the invention with the exception of the header including both upstream and down stream sections.

The patent of Farfaletti-Casali et al. discloses that it is known to have a header including both upstream and down stream sections for the purpose of reducing the number of parts and reducing overall size, weight and cost. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in over Asami et al. as modified, a header including both upstream and down stream sections for the purpose of reducing the number of parts and reducing overall size, weight and cost as disclosed in Farfaletti-Casali et al.

Response to Arguments

Applicant's concerns directed toward the amended claims are not found persuasive. Asami et al., in figures 2a-3, discloses rectangular (i.e. flat) passageways and molded bodies (104). The filters (see figure 3) are read as the dividers between the flow passageways.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

Art Unit: 3753

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Atkinson whose telephone number is (703) 308-2603.


C.A.
October 20, 2003

CHRISTOPHER ATKINSON
PRIMARY EXAMINER